

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DOROTHY STANLEY, as Executrix of the  
ESTATE of HELEN RUNGE,

*Plaintiff,*

v.

WALTER J. KELLEY; KERRY L.  
BLOOMINGDALE, M.D.; and  
SUNBRIDGE NURSING AND  
REHABILITATION CENTER,

*Defendants.*

Civil Action No. 05-10849-RGS

**OPPOSITION OF DEFENDANT SUNBRIDGE TO  
PLAINTIFF'S MOTION FOR LEAVE OF COURT TO DEPOSE GILBERT STANLEY**

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**INTRODUCTION**

The Plaintiff seeks leave of the Court to conduct a second deposition of Gilbert Stanley in North Carolina. As conceded by the Plaintiff in her motion, one question before this Court in deciding whether to permit this untimely out-of-state deposition on the eve of trial, is whether the testimony of Gilbert Stanley will be merely duplicative of the testimony of other witnesses who will be appearing at trial. Gilbert Stanley had absolutely no interaction with Defendant SunBridge or its staff until April 29, 2003, when he and his wife both arrived at the facility for the two days of visits that ended with the forcible removal of Helen Runge on April 30, 2008. At all time Gilbert Stanley interacted with SunBridge staff or with Defendant Walter Kelly, his wife, Dorothy, was present. Dorothy Stanley is the named Plaintiff in this matter and will presumably be testify at the trial. The Plaintiff has not identified any relevant and competent testimony that Gilbert Stanley can offer that cannot also be offered by Dorothy Stanley.

More importantly, the motion should be denied because Plaintiff's counsel already questioned Gilbert Stanley during his earlier November 15, 2006 deposition.

## **FACTS**

### **I. Prior Deposition of Gilbert Stanley**

A deposition Gilbert Stanley was conducted on the afternoon of November 14, 2006 and morning of November 15, 2006. The deposition was taken in North Carolina, where Gilbert Stanley resides and filled 221 pages of transcripts.

Day two of the deposition began with a cross examination by Attorney Glenn Davis, counsel for the Plaintiff. See **Exhibit A – Depo of Gilbert Stanley, Vol. 2**, page 4, line 1 – page 23, line 3. Given that Plaintiff's Counsel has already elicited testimony from Gilbert Stanley, there is no justification for imposing the expense of a second out-of-state deposition of Gilbert Stanley on the Defendants.

### **II. Duplicative Nature of Gilbert Stanley's Testimony**

Helen Runge became a resident at SunBridge's Randolph facility on January 22, 2003. She was removed from the facility by Dorothy and Gilbert Stanley on April 30, 2003. The Stanleys were not involved in the admission process in January of 2003. They were not involved in any of the healthcare decisions related to Helen Runge at any point during her stay. With the exception of a limited number of telephone calls between Dorothy Stanley and a SunBridge nurse, during which the nurse was unable to give any details about Runge's case because of HIPAA restrictions, the Stanleys had no interaction with SunBridge at any point prior to their arrival on April 29, 2003. At no point did Gilbert Stanley interact with SunBridge without Dorothy Stanley being present.

At no point in Gilbert Stanley's deposition or Plaintiff's motion is any event identified that involved Gilbert Stanley, which could not be testified about to an equal degree by Dorothy Stanley.

Gilbert Stanley did not speak with anyone at Defendant SunBridge prior to April 29, 2003. Gilbert Stanley did not even speak to Helen Runge during the time she was at SunBridge. The Stanleys have only spoken to Defendant Walter Kelly on one occasion while Helen Runge was a resident of SunBridge and both Stanleys took part in that April 25, 2003 telephone conversation with Defendant Kelly.

Q When was the next time you spoke to Helen Runge after the visits at Marion Manor?

A The next time I spoke to her was at Sunbridge on the 29th of April, '03.

Q Now, you were here when your wife was testifying and we went over a telephone conversation that occurred on or about April 25. Were you a participant in that phone conversation?

A Yes. In fact, I answered the telephone.

Q That was a conversation with Mr. Kelly?

A That was a conversation with Mr. Kelly, yes.

Q Prior to that conversation with Mr. Kelly on the 25th, you had no conversation with Helen Runge while she was at Sunbridge?

A No. No, I had not.

Q Then, I take it, you never talked to Helen Runge on the phone, from your prior testimony? I just want to be clear on that.

A I can't ever remember talking to her on the telephone. You're right.

Q So you saw her twice at Marion Manor, and the next time you saw her was on April 29?

A April (pause) ---

Q Twenty-ninth, 2003?

A Twenty-ninth, that's correct.

**Exhibit A** – *Depo of Gilbert Stanley, Vol. 2, page 29, line 8 - page 30, line 8.*

During all the events of April 29, 2003, both Gilbert and Dorothy Stanley were present.

Q So did you talk to Helen alone or was Dorothy there when you talked to Helen?

47:11 A Helen's room was right next to the desk, so we were just in between her room and the desk, so we were both there so that -- it wasn't any more room than there was between you and I between her door and the desk.

**Exhibit B** – *Depo of Gilbert Stanley, Vol. 1*, page 47, line 9 - page 47, line 15.

On April 30, 2003, when Dorothy Stanley was having discussions with SunBridge staff, Gilbert remained outside in his truck because of his hot temper. Gilbert Stanley's involvement on April 30, 2003 began when Helen Runge and Dorothy Stanley exited the SunBridge facility's building, ostensibly to talk in an outdoor sitting area.

Q Did you yourself have any conversation with anybody at Sunbridge on April 30, 2003?

A Yes.

Q Who was that?

A Ellen Redwine, the escort that they sent down to bodyguard her at the front door, a couple of the orderlies.

Q Did all of those discussions take place outdoors, outside of the facility?

A Yes, they did.

Q So your wife was the only one that went inside and talked to anybody?

A Yes.

Q What was the nature of your discussion with Ellen? What did you say to her, what did she say to you, the best you can remember?

A She came out screeching like a banshee that she had a power of -- or a healthcare proxy, I couldn't take her, and my sole discussion with her was, "I have a healthcare proxy and she's going with me."

Q Is that it for your discussion with Ellen?

A With Ellen, it was, yes.

Q How about with the escort? What was the discussion with the escort?

A The escort -- I told the escort that we were taking Helen, that we thought she was being held prisoner illegally, and she was leaving.

Q What about with the orderlies?

A The orderly that went to grab Helen, I stepped in between Helen and the orderly and told him, "Don't touch her," and the orderly backed off and said okay. The other orderly that stood in front of the car, he -- excuse me -- he shouted out, "You don't intimidate me." I said, "I don't mean to. But you don't intimidate me either. So I just want to get out of here." That was the sum total of the discussions with the people outside.

**Exhibit B** – *Depo of Gilbert Stanley, Vol. 1*, page 171, line 3 - page 172, line 16. The Plaintiff has failed to identify any subject matter to which Gilbert can testify, but about which Dorothy Stanley cannot.

### ARGUMENT

Since Gilbert Stanley resides in North Carolina, there was always a risk that he would be unavailable for trial. It appears that this risk was apparent to Plaintiff's counsel, who chose to question Gilbert during the deposition taken in North Carolina in November of 2006. **Exhibit A.** The fact that counsel now wishes to ask additional questions, questions that could have been asked during the original deposition, does not justify the expense that would be imposed on the Defendants by holding a second deposition in North Carolina; nor does it justify the disruption of Defense counsel trial preparations that would be caused by an out-of-state deposition on the eve of trial.

The few events about which Gilbert Stanley is competent to testify can be addressed by Dorothy Stanley.

In addition to the added expense of conducting a second deposition, the trial in this matter is scheduled for June 23, 2008.<sup>1</sup> Even though the mediation in this matter failed on May 12, 2008, the Plaintiff waited until June 2, 2003 to file her motion. This assures that the second

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<sup>1</sup> On May 13, 2008, Counsel for the Plaintiff indicated that he may request a postponement of the trial. Since, as of this late date, no motion has been filed requesting a postponement, it appears that all parties and counsel are available for the June 23, 2008 trial date.

deposition, if permit, would occur at a time Defense Counsel would otherwise be preparing for trial.

### **CONCLUSION**

The Plaintiff has not offered grounds for permitting Plaintiff's Counsel a second round of questioning of Gilbert Stanley. A lengthy two part deposition of Gilbert Stanley is available for use at trial, including questioning by Plaintiff's Counsel. In contract, the expense to the Defendants of appearing at this out-of-state deposition would far outstrip any value of the deposition at trial. This Honorable Court should therefore deny the Plaintiff's motion.

Should the Court choose to permit a second deposition of Gilbert Stanley; the Plaintiff should bear the cost of Defense Counsel in attending this out-of-state deposition.

Respectfully submitted,

**Mediplex of Massachusetts, Inc. d/b/a  
SunBridge Care and Rehabilitation for  
Randolph**

by its attorneys,

/s/ Michael Williams

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### **CERTIFICATE OF SERVICE**

I hereby certify that this Document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on June 3, 2008.

/s/ Michael Williams

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
NO.: 05-10849-RGS

HELEN A. RUNGE,	)	
Plaintiff,	)	
v.	)	DEPOSITION OF
	)	
WALTER J. KELLY, et al.,	)	GILBERT STANLEY - DAY 2
Defendants.	)	

On Wednesday, November 15, 2006, commencing at 9:34 a.m., the deposition of Gilbert Stanley was taken on behalf of the Defendants at the residence of Mr. and Ms. Stanley, 5 Stirrups Downs, Columbus, North Carolina, and was attended by Counsel as follows:

APPEARANCES:

GLENN R. DAVIS, ESQ.  
Latsha, Davis, Yohe & McKenna, P.C.  
1700 Bent Creek Boulevard, Suite 140  
Mechanicsburg, Pennsylvania 17050  
on behalf of the Plaintiff

GEORGE C. ROCKAS, ESQ.  
Wilson, Elser, Moskowitz, Edelman & Dicker, L.L.P.  
155 Federal Street  
Boston, Massachusetts 02110  
on behalf of Walter Kelly

JAMES S. HAMROCK, JR., ESQ.  
Hamrock & Tocci  
101 Main Street, 18th Floor  
Cambridge, Massachusetts 02142  
on behalf of Dr. Bloomingdale

MICHAEL WILLIAMS, ESQ.  
Lawson & Weitzen, L.L.P.  
88 Black Falcon Avenue  
Boston, Massachusetts 02210  
on behalf of Sunbridge Nursing Home

Attending: Dorothy Stanley

REPORTED BY: Mai-Beth Ketch, CVR  
ASHEVILLE REPORTING SERVICE

(Document aa123)

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1           PURSUANT TO NOTICE and/or Agreement to Take  
2       Depositions, the within Deposition was taken by me,  
3       Mai-Beth Ketch, a Notary Public as required in Rules  
4       26 and 30 of the North Carolina Rules of Civil  
5       Procedure.

6       STIPULATIONS:

7           IT WAS STIPULATED AND AGREED by and between  
8       Counsel for the Plaintiff and Counsel for the  
9       Defendant that each question in this Deposition is  
10      deemed to be followed by an objection and that each  
11      answer or portion thereof is deemed to be followed by  
12      a motion to strike; and that the objections and  
13      motions to strike may be ruled upon by the presiding  
14      Judge at any hearing or trial of this cause,  
15      provided, however, that any objections as to the form  
16      of the question must be made at the time the question  
17      is propounded or else the same is waived.

18      SIGNATURE:

19           The Deponent did agree that both the reading  
20      over and signing of the transcript are hereby  
21      reserved.

22           Gilbert Stanley, having previously been duly  
23      sworn to tell the truth, the whole truth, and nothing  
24      but the truth of his own knowledge concerning the  
25      within matter, testified as follows:

1 CROSS-EXAMINATION BY MR. DAVIS:

2 Q Mr. Stanley, good morning. My name is Glenn  
3 Davis, and as you know, I'm representing your  
4 mother-in-law, Helen Runge, in the lawsuit.

5 A Right.

6 Q I just had a couple followup questions to the  
7 many questions that were asked of you  
8 yesterday. I'm directing your attention back  
9 to the time frame in April of 2003, toward the  
10 end of April, when you were discussing the  
11 matter of a Roger's petition with Mr. Kelly on  
12 the phone. I believe that might have been the  
13 evening of what's been identified as Friday,  
14 April 25; is that correct?

15 A Yes, that is correct.

16 Q Now, I believe your testimony yesterday was  
17 during that phone call, Mr. Kelly indicated  
18 that there was a need for a Roger's petition;  
19 is that correct?

20 A That is correct.

21 Q What did he specifically say with regard to a  
22 Roger's petition or what his intentions were  
23 in that regard?

24 A His intentions were to get a Roger's petition  
25 so that they could force-medicate the

1 psychoactive drugs.

2 Q Did he ask either Dorothy or your permission  
3 to file a Roger's petition to do that?

4 A No.

5 Q Did he ask whether you would concur in the  
6 filing of that petition?

7 A No.

8 Q Did Mr. Kelly ever indicate to you during that  
9 conversation that he was required to make that  
10 contact with either you or Dorothy in order to  
11 file a Roger's petition?

12 A No.

13 Q Did Mr. Kelly advise either you or Dorothy  
14 that you had the ability to object to the  
15 presentment of a Roger's petition by him?

16 A No.

17 Q Now, I believe yesterday you also testified  
18 that Dorothy had said, if I can paraphrase  
19 from my notes, "If anyone is going to be her  
20 guardian, I want to be her guardian"; is that  
21 the gist of what she said?

22 A Yes, that is correct. As I remember it,  
23 that's verbatim.

24 Q What was Mr. Kelly's reaction to Dorothy's  
25 statement?

1 A His reaction was that, "You don't have to  
2 become involved in it and, you know, I can do"  
3 -- kind of generalized rather a long  
4 conversation, but essentially, "You don't have  
5 to become involved in it. I have a" -- as he  
6 called it, a judge in his pocket. He had a  
7 friend that was going to represent Helen, and  
8 it was very unlikely that this judge was going  
9 to make her the guardian.

10 Q Did Mr. Kelly identify any time frame in which  
11 he was going to present this petition during  
12 that phone call?

13 A No.

14 Q Did he indicate that he had engaged or had an  
15 appointment with Dr. Bloomingdale or any other  
16 psychiatrist to interview Helen in support of  
17 that petition?

18 A No.

19 Q Yesterday, you also said that he indicated  
20 that he had an old friend that would be  
21 willing to represent Helen. Did you have an  
22 understanding from that conversation who the  
23 old friend was?

24 A No. We -- I don't know -- I had no idea of  
25 the name of the old friend, except it was a

1 colleague of his that he had been friendly  
2 with for -- my impression was that he had been  
3 friendly with a long time and he was going to  
4 do him a favor by being Helen's attorney.

5 Q Did you form an understanding from that  
6 conversation with Kelly as to why Helen needed  
7 another attorney?

8 A Not from that conversation, no. Not from that  
9 conversation. Let me modify that a little  
10 bit. As I think about it, Mr. Kelly said that  
11 she had to be represented by an independent  
12 counsel in the court.

13 Q From that conversation, who did you understand  
14 Mr. Kelly would then be representing in that  
15 proceeding?

16 A Himself.

17 Q Was it clear from your conversation and  
18 Dorothy's conversation with Mr. Kelly on the  
19 25th that both of you didn't want Mr. Kelly to  
20 file any type of Roger's or guardianship  
21 petition?

22 A It was very clear.

23 Q Now, I think you also testified that you  
24 talked to Mr. Kelly in that conversation about  
25 coming up to Boston?

1 A Yes.

2 Q Did you agree upon a day or a date that you  
3 would be in Boston?

4 A No, except we said we would probably get there  
5 about Wednesday, because we didn't know  
6 exactly when we were going to leave.

7 Q I understand from your testimony yesterday  
8 that, in fact, you arrived on Monday and then  
9 showed up at the Sunbridge Nursing Center on  
10 Tuesday, the 29th?

11 A That's correct, and when I say Wednesday, that  
12 means arriving at the nursing home on  
13 Wednesday, not arriving in Massachusetts.

14 Q When you arrived on the 29th, what type of  
15 reception did you meet with at the nursing  
16 home?

17 A Hostile.

18 Q Who was hostile?

19 A The shift supervisor, the social worker,  
20 Farrah Sidler, certainly Ellen Redwine and the  
21 director of nurses. It was, frankly, bizarre.

22 Q I think you also indicated that you had,  
23 during the course of the 29th, asked to see  
24 your mother-in-law, Helen Runge's, medical  
25 records at Sunbridge?

1 A Yes, we did.

2 Q Did you ever see -- and by see, I mean have an  
3 opportunity to review or inspect -- her  
4 medical records in any detail on the 29th?

5 A No, we had no opportunity to inspect them at  
6 all, other than seeing a folder across the  
7 table, a chart across the table, closed.

8 Q Did you ever have an opportunity to review or  
9 inspect her medical records on Wednesday,  
10 April 30?

11 A No, we did not.

12 Q Did you request on either of those days to  
13 review and inspect her records?

14 A Yes, several times.

15 Q Was that prior to or after you gave the  
16 facility the healthcare proxy and power of  
17 attorney that Helen had executed on both your  
18 behalf and Ms. Stanley's behalf?

19 A It was both before and after.

20 Q Did Helen at any point advise any of the staff  
21 at Sunbridge that you were allowed to look at  
22 her medical records?

23 A Yes. She advised the shift nurse to allow  
24 Dorothy to see her records.

25 Q Did Dorothy in fact see her records?

1 A No, she did not.

2 Q Did anyone at Sunbridge ever indicate to you  
3 that Mr. Kelly had given permission to you to  
4 look at medical records?

5 A No.

6 Q There was some testimony yesterday, and I'm  
7 not sure I quite followed it. I just wanted  
8 to make sure that I understood it. At one  
9 point, you said you were on the third floor  
10 and you were in a room that the medical  
11 records had been brought into. Would you  
12 explain that again?

13 A Yes. We were on the third floor. They looked  
14 as if they were going to allow us to see the  
15 medical records. So they brought them into  
16 the -- they couldn't find a place that we  
17 could sit down in privacy with the nurse and  
18 the social worker, so they brought us into the  
19 social worker's office, which was on the third  
20 floor, and at that point in time was when we  
21 presented the healthcare, power of attorney  
22 and a copy -- gave them a copy of the letter  
23 that was discharging Mr. Kelly. At that  
24 point, they wouldn't let us see the records.  
25 They went out and talked to -- said they



1           talked to Mr. Kelly. Farrah Sidler went out,  
2           and she seemed to be the person interfacing  
3           with him, and it wasn't very long after that  
4           Ellen Redwine, Farrah Sidler's supervisor,  
5           came in in a fury and I will say kicked us out  
6           of the office. It was not physically, but was  
7           highly irate and told us to get out, which we  
8           did, and so we did not see the records.

9       Q    Then I think your testimony, and I didn't  
10           follow this, was at a later time that day you  
11           again saw the records on the first floor?

12    A    Yes. They brought -- they had a meeting about  
13           this problem. They called their attorney out  
14           in Albuquerque, I think it is.

15    Q    How do you know they called their attorney in  
16           Albuquerque?

17    A    They told us they were, and they had -- the  
18           shift supervisor, Ellen Redwine, and a couple  
19           other people were going through her chart,  
20           taking pages out, making copies of pages.  
21           They spent the better part of two hours doing  
22           that, and that was down in an office on the  
23           first floor. So we saw them at a distance.

24    Q    Where were you physically located to be able  
25           to observe that?

1 A We were sitting outside the office, down in a  
2 lobby of the -- this office was off the main  
3 lobby of the facility. We were sitting down,  
4 waiting for them to come to a determination on  
5 whether they were going to allow us to see her  
6 records or not.

7 Q Now, after you had taken Helen from the  
8 facility on April 30, did you or Dorothy make  
9 any subsequent requests for Sunbridge to  
10 provide you with copies of the medical  
11 records?

12 A Yes. We sent a letter to them, a registered  
13 letter to them, requesting the records, would  
14 they ---

15 Q Did they -- go ahead.

16 A Would they release records signed by Helen.

17 Q Did they provide you those medical records?

18 A No, they did not.

19 Q Did you ever ask Sunbridge for Helen's  
20 physical possessions?

21 A Yes, we did. We began -- my daughter in her  
22 telephone call asked them to send us her  
23 possessions. That -- nothing happened from  
24 that. We sent a registered letter with a \$50  
25 cashier's check to pay for the shipment of

1           whatever belongings she had down here. They  
2           never cashed the check, never sent the  
3           possessions. They wouldn't communicate with  
4           us.

5       Q     You said your daughter called the facility?

6       A     Yes.

7       Q     When did she call the facility?

8       A     She called the facility, actually, twice. She  
9           called them on the -- if I remember right, on  
10          the 1st. She made that on Monday.

11      Q     When you say the 1st, is that May 1?

12      A     I'm sorry, yes. It's on a -- the day after we  
13          took her, which was May 1.

14      Q     What were the purposes of those calls?

15      A     The first call was just to tell them that she  
16          was safe, we had her out of the state, and she  
17          was going to be brought to a medical facility  
18          for a checkup.

19      Q     The second call?

20      A     The second call was to ask them to send her  
21          possessions.

22      (OFF THE RECORD)

23      (GILBERT STANLEY EXHIBIT NO. 3 MARKED)

24      CROSS-EXAMINATION RESUMED BY MR. DAVIS:

25      Q     Mr. Stanley, let me place in front of you a

multiple-paged document that we've asked  
marked as Gilbert Stanley Exhibit No. 3. If  
you would take a moment to review that?

(Tenders)

A (Upon review) Okay.

Q Have you seen that document prior to today?

A Yes.

Q What do you understand that document to be?

A That document was an affidavit that Walter  
Kelly presented to the Court in order to  
support his application for guardianship for  
Helen Runge.

Q Now, did Mr. Kelly provide you with a copy of  
this affidavit before he filed it with his  
petition?

A No, no.

Q When did you obtain a copy of this affidavit?

A After he filed it with the Court and we hired  
a lawyer in Massachusetts and he got the  
filing from the Court.

Q Did you have an opportunity to review the  
affidavit that Mr. Kelly prepared and filed?

A Before he filed it or after he filed?

Q Well, let's start with that. Before he filed  
it?

1 A Before he filed it, no, I didn't see it.

2 Q Since he filed it, obviously, you've reviewed  
3 it then?

4 A Yes, I have. Sure.

5 Q If I could direct your attention to some of  
6 the representations, let me ask you your  
7 opinion on them. In Paragraph 3 where he  
8 says, "Helen has been estranged from her  
9 daughter's family for over 30 years according  
10 to Helen and Helen told me that she had seen  
11 the daughter on only a few occasions during  
12 that time," do you have an opinion as to the  
13 truthfulness of that statement?

14 BY MR. ROCKAS:

15 Objection.

16 CROSS-EXAMINATION RESUMED BY MR. DAVIS:

17 Q You can answer.

18 A Yes.

19 Q Was, in fact, Helen estranged from Dorothy?

20 A No. That's ridiculous.

21 Q In fact, though, it was true that Dorothy had  
22 only seen Helen on several occasions for a  
23 long period of time?

24 BY MR. ROCKAS:

25 Objection.

1 CROSS-EXAMINATION RESUMED BY MR. DAVIS:

2 Q You can answer.

3 A Yeah. I'm just reading. Excuse me. Yes.

4 You know, I can't count how many, but probably  
5 under 20.

6 Q Now, there's some discussion in that paragraph  
7 about being "invited to their North Carolina  
8 home." Had you had any discussion or had  
9 Dorothy had any discussions with Attorney  
10 Kelly with regard to Helen coming to North  
11 Carolina prior to him signing his affidavit on  
12 May 2, 2003?

13 A Yes.

14 Q What was your understanding of the  
15 representations that either or Dorothy made to  
16 Mr. Kelly with regard to Helen's availability  
17 to come to North Carolina?

18 BY MR. ROCKAS:

19 Objection.

20 BY THE DEPONENT:

21 My understanding was that Helen wanted to come  
22 to North Carolina and we were working towards  
23 bringing her down here to North Carolina,  
24 where we could take care of her.

25 CROSS-EXAMINATION RESUMED BY MR. DAVIS:

1 Q Was Mr. Kelly aware that you and Dorothy were  
2 working to get Helen to North Carolina?

3 BY MR. ROCKAS:

4 Objection.

5 BY THE DEPONENT:

6 Yes, yes. We had sent Mr. Kelly the  
7 applications and so forth and -- to the Tryon  
8 Estates retirement community in Tryon, North  
9 Carolina, and he was supposed to be getting  
10 them filled out and sent back to us.

11 CROSS-EXAMINATION RESUMED BY MR. DAVIS:

12 Q I direct your attention to Paragraph 7. Just  
13 take a moment to read that.

14 A Okay.

15 Q What was your reaction to that paragraph, upon  
16 first reading it?

17 A Helen had expressed a desire to come to North  
18 Carolina. When she was discharged from  
19 Carney, we did -- Dorothy did a lot of talking  
20 with the nurses and the social worker and the  
21 doctor at Carney Hospital, and everybody --  
22 and Walter Kelly, and everybody was in  
23 agreement that she should come down here to  
24 North Carolina, and Helen said she wanted to  
25 come. So we assumed that that was correct,

1           that she wanted to come.

2       BY MR. ROCKAS:

3           Move to strike. Even though motions to strike  
4           are reserved, I want to move to strike that.

5       CROSS-EXAMINATION RESUMED BY MR. DAVIS:

6       Q     Now, on April 29, while you were at Sunbridge,  
7           did either you or Dorothy express to anyone  
8           Helen's desire to come to North Carolina?

9       A     Express to anyone at Sunbridge?

10      Q     Sunbridge.

11      A     No, not that I recall.

12      Q     On the 30th, did you express Helen's desire  
13           for her to come along with you and Dorothy to  
14           North Carolina?

15      A     No, because I didn't go in -- not that I know  
16           of, because I did not go into the facility on  
17           the 30th.

18      Q     Now, yesterday we had marked as Exhibit 1 a  
19           letter that I believe you indicated had been  
20           prepared at your stepmother-in-law's home?

21      A     Yes.

22      Q     Was that letter given to anyone at Sunbridge?

23      A     No, it was just given to us.

24      Q     If I could direct your attention to Paragraph  
25           9 of Exhibit Gilbert Stanley 2? Mr. Kelly



1 indicates that "during that conversation," and  
2 I believe he's referring to the Friday, April  
3 25 conversation, that Dorothy explored  
4 financial matters with him. Was there any  
5 discussion with regard to financial matters  
6 between Mr. Kelly and Dorothy during that  
7 telephone call?

8 A No. It wasn't about finances at all.

9 Q What was the conversation about?

10 A It was about the Roger's petition and the whys  
11 and wherefores of getting it.

12 Q He also says that "he told me" -- and I'm  
13 assuming that he is referring to you -- "her  
14 medications were not necessary." Do you  
15 recall a conversation with Attorney Kelly on  
16 Friday, April 25, with regard to medications?

17 A The only conversation we had with medications  
18 was that he said she was very excitable and  
19 they were trying to calm her down, and I said,  
20 "Well, she's always been very excitable. So  
21 why are you giving her these types of drugs to  
22 calm her down? What are you trying to do?"

23 Q Did he mention the drug Zyprexa in that  
24 conversation?

25 A Yes.

1 Q Did he mention any other drugs?

2 A If I remember, BuSpar or BuSpar. (Pronounces  
3 differently)

4 Q BuSpar?

5 A BuSpar, B-u-s-p-a-r, I think it is.

6 Q Specifically with regard to the Zyprexa  
7 referenced by Attorney Kelly, did that raise  
8 any concern in your mind?

9 A It raised a lot of concern in my mind. That's  
10 a -- we had looked up that drug when she was  
11 at Carney, because she was given it at Carney,  
12 and what -- we found in the US Department of  
13 Health MedLine and the manufacturer's drug  
14 labels that it was not permissible to give  
15 that drug to an elderly patient with any  
16 dementia. So it -- the FDA had not approved  
17 it for that use. So that really started to  
18 concern me, and then, of course, at Carney, we  
19 had some of the medical records and they had  
20 started it at Carney at five milligrams and  
21 she had a reaction to it and had to cut it  
22 back to two and a half milligrams. So yeah, I  
23 was concerned that she was getting a drug that  
24 -- essentially, the survey said that causes  
25 death in the individual, that type of an

1 individual, 1.6 to 1.7 times that of the  
2 person that was not getting it.

3 Q Did you express your concerns with the Zyprexa  
4 being administered to Helen to Mr. Kelly in  
5 that conversation?

6 A Yes. I said, you know, "We're not" -- well, I  
7 made a general statement. I said, "We don't  
8 want" -- "we need to come up and explore  
9 what's happening with these drugs, because  
10 we're not satisfied with what we're hearing,"  
11 words to that effect.

12 Q Do you recall Mr. Kelly's reaction to that  
13 statement, if he had any?

14 A Yeah. He said, "Well, they're not giving her  
15 very much." That's what (pause) ---

16 Q Yesterday, I believe there was some discussion  
17 with you with regard to either getting a call  
18 or a police officer coming to your house here  
19 in North Carolina. Did a police officer come  
20 to your house in North Carolina after Helen  
21 had been brought here in May of 2003?

22 A No.

23 Q Did you get a call from a police officer here  
24 at your ---

25 A Yes. When I got back in here on a Sunday, a

1           Brett Jackson from Columbus Police Department  
2           had a call on -- had left a message on our  
3           answering machine and I returned the call. He  
4           said that, to quote him, "Those guys up there  
5           are really after you. They think you kidnaped  
6           your mother-in-law," and I said, "Okay, what  
7           business is it of yours?" "Oh. Well, you  
8           know, I've turned it over to DSS," because  
9           Officer Brett Jackson had no authority down  
10          here. This is in the county. He wasn't even  
11          supposed to be fooling with it. So he said,  
12          "You better satisfy those guys, or they're  
13          going to make it mean for you," and that's  
14          where the telephone conversation stopped.

15        Q    To your knowledge, were any criminal charges  
16              ever filed against you or Ms. Stanley with  
17              regard to caring for Helen here in your home?

18        A    No. We -- I went down to the sheriff the  
19              first thing Monday and explained what was  
20              happening, and he -- his reaction is, "Is if  
21              you get those guys to come down here, I have  
22              some free room and board for them." He said,  
23              "We don't look kindly on filing false police  
24              reports," which in his case and his thought  
25              the police report that had been filed was

1 false.

2 BY MR. DAVIS:

3 I have no further questions at this point.

4 REDIRECT EXAMINATION BY MR. ROCKAS:

5 Q I have a couple questions. Attorney Davis,  
6 Mr. Stanley, asked you some questions  
7 regarding the April 25 phone call. So let's  
8 just focus on that for a few minutes.

9 A Sure.

10 Q Mr. Davis asked you whether Walter Kelly had  
11 informed you whether you had the ability to  
12 object to his going into court to get a  
13 Roger's petition and you answered no, that he  
14 did not?

15 A I'm sorry. Excuse me. Off the record.

16 (OFF THE RECORD)

17 REDIRECT EXAMINATION RESUMED BY MR. ROCKAS:

18 Q Mr. Davis asked you whether during this April  
19 25 phone call Mr. Kelly advised you that you  
20 had the ability to object to the Roger's  
21 petition and you answered no; do you remember  
22 that testimony?

23 A Yeah. Mr. Kelly did not inform me that I had  
24 the ability to object to that, if that's what  
25 you're asking me.

## Affidavit

In the Matter of:

County:

FileNumber: **05-10849-RGS**

Caption: **Helen A. Runge,**  
**v.**  
**Walter J. Kelly, et al.**

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THIS is to certify that **Gilbert Stanley - Day 2**, at his/her deposition taken on **Wednesday, November 15, 2006** reserved the right to read over a sign the transcript of his/her deposition;

THAT the deponent was provided with a copy of said transcript, along with an errata sheet on which to record any corrections desired;

THAT the deponent was given at least 30 days to return said errata sheet to me for filing with the transcript;

THAT after the designated time, I had no response from the deponent and, therefore, am filing this transcript with proper authorities in absence of any signature.

*Mai-Beth Ketch*

---

Signature of Court Reporter

**Mai-Beth Ketch**

**Wednesday, January 31, 2007**

Date

HELEN A. RUNGE,  
Plaintiff,  
v.  
WALTER J. KELLY, et al.,  
Defendants.

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DEPOSITION OF  
  
GILBERT STANLEY - DAY

APPEARANCES:

MICHAEL WILLIAMS, ESQ.  
Lawson & Weitzen, L.L.P.  
88 Black Falcon Avenue  
Boston, Massachusetts 02210  
on behalf of Sunbridge Nursing Home

REPORTED BY: Mai-Beth Ketch, CVR  
ASHEVILLE REPORTING SERVICE

1 the cold water, and then she said that -- she  
2 saw us and popped out of her room about half  
3 dressed, with excitement, and said that -- I  
4 forget what saint it was, but some saint has  
5 "answered my prayers," and we got her dressed  
6 -- or she got dressed and then we took her  
7 downstairs so we could talk. In the meantime,  
8 Dorothy talked to the nurses on the desk.

9 Q So did you talk to Helen alone or was Dorothy  
10 there when you talked to Helen?

11 A Helen's room was right next to the desk, so we  
12 were just in between her room and the desk, so  
13 we were both there so that -- it wasn't any  
14 more room than there was between you and I  
15 between her door and the desk.

16 Q What did you talk about with Helen?

17 A Well, just hello and, you know, how are you  
18 doing, and just a normal greeting-type of  
19 conversation at that point.

20 Q That's it?

21 A At that point, yes. You know, when she was in  
22 her room or outside of the door to her room.

23 Q At some point, did she say other things to you  
24 that day?

25 A Yeah, a lot.



1           You can go ahead.

2           CROSS-EXAMINATION RESUMED BY MR. WILLIAMS:

3           Q     Did you yourself have any conversation with  
4                 anybody at Sunbridge on April 30, 2003?

5           A     Yes.

6           Q     Who was that?

7           A     Ellen Redwine, the escort that they sent down  
8                 to bodyguard her at the front door, a couple  
9                 of the orderlies.

10          Q     Did all of those discussions take place  
11                 outdoors, outside of the facility?

12          A     Yes, they did.

13          Q     So your wife was the only one that went inside  
14                 and talked to anybody?

15          A     Yes.

16          Q     What was the nature of your discussion with  
17                 Ellen? What did you say to her, what did she  
18                 say to you, the best you can remember?

19          A     She came out screeching like a banshee that  
20                 she had a power of -- or a healthcare proxy, I  
21                 couldn't take her, and my sole discussion with  
22                 her was, "I have a healthcare proxy and she's  
23                 going with me."

24          Q     Is that it for your discussion with Ellen?

25          A     With Ellen, it was, yes.

1 Q How about with the escort? What was the  
2 discussion with the escort?

3 A The escort -- I told the escort that we were  
4 taking Helen, that we thought she was being  
5 held prisoner illegally, and she was leaving.

6 Q What about with the orderlies?

7 A The orderly that went to grab Helen, I stepped  
8 in between Helen and the orderly and told him,  
9 "Don't touch her," and the orderly backed off  
10 and said okay. The other orderly that stood  
11 in front of the car, he -- excuse me -- he  
12 shouted out, "You don't intimidate me." I  
13 said, "I don't mean to. But you don't  
14 intimidate me either. So I just want to get  
15 out of here." That was the sum total of the  
16 discussions with the people outside.

17 Q Some of those orderlies were standing in front  
18 and behind your vehicle; correct?

19 A There was some guy standing behind the vehicle  
20 that they said was the new director of  
21 Sunbridge. He had just go there that day,  
22 okay, poor guy. He -- there was an orderly  
23 standing in front of the vehicle, because  
24 Ellen Redwine told them to.

25 Q At some point, you started to drive off;

**SIGNATURE PAGE**

RE: Deposition of Gilbert Stanley, taken on November 14, 2006

I, the undersigned, certify that I have reviewed the foregoing transcript of testimony given by me in the above-referenced matter and hereby make the following corrections and/or changes. This testimony should be corrected as follows:

Page	Line	Correction	Reason
8	3	DIVISION SHOULD READ "AGENCY"	TRANSCRIBED INCORRECTLY
16	20	"HAS" SHOULD READ "AS"	TRANSCRIBED INCORRECTLY
19	5	"NOW" SHOULD READ "NOT"	TRANSCRIBED INCORRECTLY
35	20	"IMPRESSIONS" SHOULD BE "POSSESSIONS"	TRANSCRIBED INCORRECTLY
39	10	"YEAH" IS NOT THE ANSWER TO THE QUESTION ON LINE 9	TRANSCRIBED INCORRECTLY
52	23	COLT → COLE	INCORRECT SPELLING
77	18	THIS WAS NOT THE ANSWER I SAID TO THIS QUESTION. IT MAKES NO SENSE.	TRANSCRIBED INCORRECTLY.
107	23	FUND → FUN	TRANSCRIPTION ERROR.
126	6	TAKE TO → TAKE TIME TO	TRANSCRIPTION ERROR

Subject to the foregoing corrections, my testimony is as contained in the aforementioned transcript.

Signature

Sworn to me and subscribed before me this 8 day of January, 2007.

*Dwight A. Gray*  
Notary Public  
My commission expires

(EXPLANATORY NOTE: Everything the deponent says is reported verbatim. Form styles include: two dashes means a change in train of thought, three dashes means an interruption; "(pause)" means a pause or trailing off in speech.)

(Doc ID AA122)